

JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Thursday, December 15, 2016

Public and Environment to Benefit from \$50 Million Proposed Settlement for Natural Resources Harmed by Virginia Dupont Facility

Officials Announce Largest Natural Resource Damage Settlement in Virginia's History

The Departments of Justice and the Interior joined with the Commonwealth of Virginia today to announce a proposed settlement with DuPont valued at approximately \$50 million to resolve claims stemming from the release of mercury from the former E.I. du Pont de Nemours and Company (DuPont) facility in Waynesboro, Virginia. Over 100 miles of river and associated floodplain have been contaminated by mercury in the South River and South Fork Shenandoah River watershed.

In addition to a cash payment of just over \$42 million, DuPont will fund the design and implementation of significant renovations at the Front Royal Fish Hatchery, estimated to cost up to \$10 million. The settlement terms are outlined in a proposed consent decree filed in federal court in Harrisonburg, Virginia, today.

DuPont will provide the funds to government natural resource trustees, who will oversee the implementation of projects compensating the public for the natural resource injuries and associated losses in ecological and recreational services, such as fishing access.

The trustees, through U.S. Fish and Wildlife Service and Commonwealth of Virginia, invite feedback on actions to restore the river and wildlife habitat and improve public lands and recreational resources. A draft restoration plan and environmental assessment (RP/EA) was also released today for a 45-day public comment period. The plan results from stakeholder meetings beginning in 2008 to determine how best to compensate the public for the injured natural resources and their uses.

"This remarkable settlement will help restore the precious natural resources of the South Fork Shenandoah watershed, bringing lasting benefits for future generations of Virginians to enjoy," said Assistant Attorney General John C. Cruden for the Justice Department's Environment and Natural Resources Division. "This joint action with the Department of the Interior and the Commonwealth of Virginia is yet another testament to the value and effectiveness of cooperative federalism in action and I am grateful to all of our partners for the efforts that brought us to this resolution."

"Today's settlement, the largest of its kind in Virginia history, is the culmination of a coordinated effort by countless partners at both the state and federal level," said Governor Terry McAuliffe. "Thanks to their hard work, Virginians and the environment will benefit from unprecedented investments in land conservation and habitat restoration. I applaud and appreciate the meticulous monitoring by our state agencies, the thorough analysis of the scientific advisory committee, and DuPont's willingness to come to the table and make this happen."

Since 2005, DuPont and the trustees have worked cooperatively to assess and identify potential restoration projects to benefit natural resources affected by mercury releases from the DuPont facility. Over 100 miles of river and thousands of acres of floodplain and riparian habitat were impacted from the mercury. Some of the assessed and impacted natural resources include fish, migratory songbirds, reptiles, amphibians and mammals. Recreational fishing opportunities were also impacted from the mercury.

**Exhibit
3637**

State of Minnesota v. 3M Co.,
Court File No. 27-CV-10-28862

3637.0001

“Years of input from community leaders, and partnership with the Commonwealth of Virginia, have led us to propose over \$50 million worth of restoration that will be at no cost to taxpayers,” said Northeast Regional Director Wendi Weber of the U.S. Fish and Wildlife Service. “Fish, wildlife, land and waters, as well as the city of Waynesboro and other communities affected by decades of mercury release, will benefit from natural resource projects improving water and stream quality, protecting and restoring wildlife habitat and increasing river access for recreation.”

“Clean air, water and land are environmental priorities and economic assets that make Virginia a great place to live, work and raise a family,” said Attorney General Mark Herring of the Commonwealth of Virginia. “We have an obligation to protect these assets for future generations and this record-setting settlement shows that we take our responsibilities seriously. This settlement will allow us to protect and enhance lands throughout the Shenandoah Valley and improve the quality of water for wildlife, anglers, paddlers and others who use these waterways for recreation. I really appreciate the hard work that my team, Governor Terry McAuliffe, Secretary Molly Ward, DEQ and our federal partners put into making this historic settlement a reality.”

Mercury released into the South River from the DuPont facility in the 1930s and 1940s continues to persist in the environment. Monitoring data collected over the last 20 years indicates that mercury levels remain stable, with no clear decreases over time. Federal law seeks to make the environment and public whole for injuries to natural resources and ecological and recreational services resulting from a release of hazardous substances to the environment.

The trustees evaluated a range of restoration alternatives and have ultimately proposed a preferred restoration alternative that includes projects that best meet the requirement that restoration efforts specifically focus on the injured resources. Proposed projects include:

- land protection, property acquisition, improvements to recreational opportunities and wildlife habitat restoration
- improvements to water quality and fish habitat through activities such as streamside plantings and erosion control, as well as stormwater pond improvements
- mussel propagation and restoration to improve water quality, stabilize sediment and enhance stream bottom structure
- Front Royal Fish Hatchery renovations to improve production of warm-water fish such as smallmouth bass
- recreational fishing access creation or improvement
- migratory songbird habitat restoration and protection

The draft RP/EA outlines these proposed projects, as well as other restoration alternatives and an evaluation of injuries to the natural resources. It is available online, along with other information on the process, at www.fws.gov/northeast/virginiafield/news/news.html.

The trustees will host a public meeting to summarize key components of the draft restoration plan and answer questions. The public meeting will be held on Jan. 10, 2017, at the Waynesboro Public Library lower level meeting room from 6:00 PM to 8:30 PM. The library is located at 600 S. Wayne Avenue, Waynesboro, Virginia, 22980. Following the comment period, the trustees will review and consider comments and prepare the final RP/EA.

Ultimately, the trustees will work with project partners such as local, state, and federal agencies; nonprofit organizations; and landowners to implement the projects.

Today’s settlement, lodged with the U.S. District Court for the Western District of Virginia, is subject to a 45-day public comment period to begin following notification in the Federal Register. The settlement is subject to final approval by the court. To view the consent decree, visit the department’s website: www.justice.gov/enrd/consent-decrees.

Topic(s):

Environment

Component(s):

Environment and Natural Resources Division

Press Release Number:

16-1476